

MAR 21 2005

TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.
MFA-14502/04

In Re Application Of: Artur Schworer

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/081,504	2/22/2002	Alvin C. Chin Shue	25006	3634	9973

Invention: SCAFFOLD WITH VERTICAL SUPPORTS AND HORIZONTAL CARRIERS

COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on

The fee for filing this Appeal Brief is: \$500.00

- ☒ A check in the amount of the fee is enclosed.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account.
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Signature

Dated: March 21, 2005

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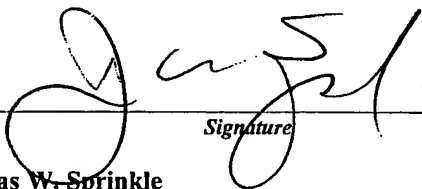
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CC:

Serial No. 10/081,504
Reply to Office Action of November 3, 2004



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Artur Schwörer

Serial No.: 10/081,504

Group Art Unit: 3634

Filing Date: February 22, 2002

Examiner: Alvin C. Chin Shue

Title: SCAFFOLD WITH VERTICAL SUPPORTS AND HORIZONTAL CARRIERS

APPELLANT'S BRIEF UNDER 37 CFR §1.192

Mail Stop Appeal Brief
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the Office Action dated November 3, 2004, Applicant appeals the final rejection of certain claims in the present application. Attached hereto is Applicant's Notice of Appeal that was timely filed on January 20, 2005. Applicant further asserts as follows.

I. Real Party in Interest

The real party in interest is Peri GmbH, Wiessenhorn, Germany.

II. Related Appeals and Interferences

None.

III. Status of Claims

Claims 2-6, 8-20, 23 and 24 are pending in this application. Claim 22 has been cancelled.

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Claims 8 and 24 have been allowed. Claims 2-6, 9-20 and 23 have been finally rejected by the Patent Examiner.

IV. Status of Amendments

All amendments filed in this application have been entered by the Patent Examiner.

V. Summary of the Invention

The present invention relates to a scaffold having a plurality of vertical supports 11 arranged in a spaced-apart relationship relative to each other. The scaffold has a plurality of tiers, including a plurality of first horizontal carriers 12 and a plurality of second horizontal carriers 13. A plurality of scaffold decks 14 each have two long sides and two short sides with a holding means 26 being provided at the two short sides.

The decks 14, furthermore, have at least one elongated guide stop 15 projecting from one of the long sides of the deck 14 and close to, but spaced from at least one of the short sides. This guide stop 15 extends along only a portion of the deck 14 and is adapted to be slidably placed on a second horizontal carrier 13 in such a manner that the deck 14 held by an operator at the short side 17 remote from the guide stop 15 can slidably displace the deck by sliding the guide stop 15 along the second horizontal carrier 13. Additionally, once the deck is positioned by the operator at one end, the deck 14 can be then tilted or pivoted about the guide stop 15 until the holding means 26 engages the first horizontal carrier 14 whereupon the interaction between the holding means and the first horizontal carrier 12 forms the support for the deck.

A primary advantage of Applicant's invention is that, through the use of the guide stops, a single operator is able to erect the entire scaffold. Furthermore, once erected, all of the decks 14 are wholly supported by the hooks or holding means 26 at their short ends.

V. Issues

The Patent Examiner has rejected claims 23, 2-6, 9-15 and 7-20 as unpatentably obvious under 35 U.S.C. §103(a) over the German '566 patent to Miller in view of U.S. Patent No. 4,802,553 to Waters et al., and in further view of U.S. Patent No. 4,969,777 to Eickhoff.

The Patent Examiner has further rejected claim 16 as unpatentable over Miller, Waters and Eickhoff and in further view of U.S. Patent No. 6,027,276 to Schworer.

VI. Grouping of the Claims.

The rejected claims stand or fall together. For that reason, only claim 23, i.e. the only independent rejected claim, will be discussed in this brief.

VII. Argument

Claim 23, the only rejected independent claim, is reproduced below:

23. A scaffold comprising:
a plurality of vertical supports (11) arranged spaced apart beside one another and behind one another, between which:
tiers (A, B, C) are arranged one above the other realised by:
a plurality of first horizontal carriers (12) extending parallel to one another between adjacent vertical supports,
a plurality of second horizontal carriers (13) extending parallel to one another between adjacent vertical supports and arranged perpendicular to said first horizontal carriers (12) at the same height; and
a plurality of rectangular scaffold decks (14) each having two long and two short sides (16, 17) and holding means being provided at the two short sides, and wherein said decks are releasably supported in the assembled state of the scaffold through the holding means on two adjacent first horizontal carriers (12);
a plurality of diagonal braces (35) being connected to adjacent vertical supports (11) characterized in that:
the decks (14) have at least one guide stop (15) projecting from one of said long sides and close to but spaced from at least one of said short sides (16, 17), said guide stop extending along only a portion of said deck and is adapted to be slidably placed on a second horizontal carrier (13) in such a manner that the deck (14) held by an operator at the short side (17) remote from the guide stop (15) and operative to be displaced by sliding the guide stop (15) on the second horizontal carrier (13) to an opposite first horizontal carrier (12) and which is projecting to such an extent from said one side that by tilting the deck about the second horizontal carrier (13) on which the guide stop rests, said holding means is positioned higher than the opposite first horizontal carrier (12) so that the deck can be pushed to a position where said holding means is positioned over the opposite first horizontal carrier (12) and brought to rest into the position of use thereon, where the holding means have engaged the first horizontal carriers, by tilting back and lowering the deck into the horizontal position whereupon said holding means supports said deck upon said first horizontal carriers.

While claim 23 is not particularly short, it is clear and concise. Specifically, claim 23 clearly defines the vertical supports 11, as well as the tiers A, B and C that are arranged one above each other and defined by the first horizontal carriers 12 and the second horizontal carriers 13 which extend perpendicular to the first horizontal carriers 12.

Claim 23 also clearly defines the scaffold decks 14 as having two long sides and two short sides with the holdings means provided at the short sides. In the preferred embodiment, the holding means comprise the hooks 26 (*see* Fig. 3).

Claim 23 also clearly defines the guide stops 15 as projecting outwardly from one of the long sides close to, but spaced from one of the short sides of deck 14. Claim 23 clearly defines the guide stop 15 as extending only along a portion of the deck 14 and that the guide stop 15 is adapted to slide along one of the second horizontal carriers 13, as best shown in Fig. 1 of the drawings.

Claim 23 further clarifies that the guide stops 15 enable the operator to not only slide the decks 14 along the second horizontal carrier 13, but to also tilt the deck 14 into position whereupon the holding means 26 engage the first horizontal carriers 12, such that the weight of the deck 14 is support by the first horizontal carriers 12.

For the reasons set forth below, Applicant respectfully submits that the Patent Examiner's combination of references simply do not teach or render obvious Applicant's invention as it is defined in claim 23.

More specifically, the German patent to Miller admittedly discloses a shelving arrangement in which the shelves 10 are mounted onto various carriers. In the Miller reference, the shelves 10 are supported wholly by the elongated horizontal carriers 41. This, of course, is

entirely contrary to the present invention as it is defined in claim 3. Specifically, claim 23 clearly sets forth that the decking 14 is supported solely by the holding means 26 at the short end of the deck 14. Indeed, in the Miller patent, there is absolutely no attachment at all between the short ends of the shelving 10 and horizontal carriers 47.

Additionally, claim 23 clearly defines over the Miller patent since claim 23 clearly defines that the guide stops 15 are not only spaced from the short ends of the deck, but also that these guide means extend along only a portion of the elongated sides of the deck 14. This, of course, is entirely contrary to the teachings of the Miller patent since the side channels of the Miller patent engage the elongated horizontal carriers 14 of Miller entirely between the short ends of the shelving 10. Indeed, a sharp contrast to the present invention, in Miller it is the side channels along the long sides of the shelving or deck which forms the entire support for the Miller shelves 10. This is opposite from Applicant's invention.

The Patent Examiner, however, has clearly combined the Miller patent with the Waters patent which discloses the provisions of hooks 12a and 12b at the short ends of the Waters decking 10. As it is understood, it is the Examiner's position that it would be obvious to provide the hooks 12a and 12b of Waters at the short ends of the Miller shelving 10. Applicant, however, respectfully submits that there is no absolutely no suggestion or motivation, other than that provided by the instant disclosure, to modify the Miller patent in the manner suggested by the Patent Examiner to include the hooks 12a and 12b of Waters et al.

More specifically, in the Miller patent, the shelving 10 is fully supported by the elongated carriers 14 along the long sides of the shelving. As such, there is absolutely no reason or motivation, whatsoever, to add the hooks 12a and 12b of Waters et al. to the Miller patent.

Indeed, to do so, would be clearly redundant to the teachings of the Miller disclosure and would simply constitute a piecemeal reconstruction of Applicant's invention from the prior art.

The Patent Examiner's further reliance upon the Eickhoff patent in his rejection of claim 23 simply does not cure the deficiencies of the Patent Examiner's combination of Miller and Waters et al. As understood, it is the Patent Examiner's position that Eickhoff discloses hook-like guide stops 71 which the Patent Examiner correlates to the guide stops 15 in the instant application. This, however, is simply an incorrect interpretation of the Eickhoff patent.

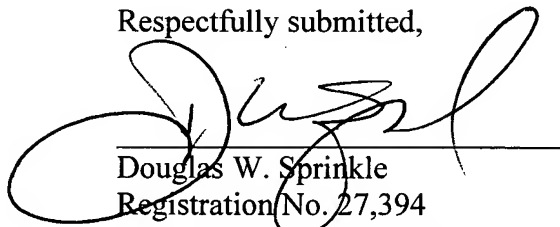
More specifically, in the Eickhoff patent, the hooks 71 are provided at the *short* end of the Eickhoff decking 57, rather than along the long side of the deck 14 in the Applicant's invention and as is clearly defined in appealed claim 23. Claim 23 also clearly sets forth that the guide stops are adapted to be slid along the horizontal carriers along the long sides of the decking 14, which enables a single operator to assemble the entire scaffold. This is simply not possible if one attempts to equate the Eickhoff hooks 71 with Applicant's guide stops 15. Rather, this appears to be the clearest form of a piecemeal reconstruction based upon hindsight, i.e. simply removing an element from the Eickhoff patent and utilizing that element in a completely different fashion in an attempt to reconstruct Applicant's claims.

In short, none of the prior art references of record disclose, teach or even vaguely suggest Applicant's invention of providing a guide stop along one side of the long side of the decking and hooks at the short end of the decking which enables a single operator to assemble the entire scaffold. That is Applicant's invention, that invention is clearly defined in appealed claim 23, and that invention is simply neither shown nor suggested by the prior art references of record.

VIII. Conclusion

In view of the foregoing, Applicant respectfully submits that this application is in condition for formal allowance and such action is respectfully solicited.

Respectfully submitted,



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Dated: March 21, 2005

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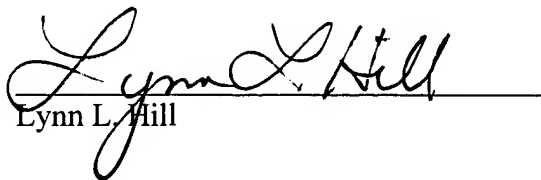
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Lynn L. Hill

CLAIMS APPENDIX

2. A scaffold in accordance with claim 23, wherein two guide stops (15) are provided at one of said two long sides wherein one of said two guide stops is close to each one of said two short sides (16, 17) of the scaffold decks (14).

3. A scaffold in accordance with claim 2, wherein said two guide stops (15) provided at one scaffold deck (14) have a spacing from the two short sides (16, 17) of the scaffold deck (14) which differs such that when two long sides, which comprise the two guide stops (15), of two scaffold decks (14) lie adjacent one another on a single horizontal carrier (12) while in use, the two guide stops (15) are mutually offset in a longitudinal direction of the two scaffold decks such that the two guide stops of each scaffold deck rest adjacent one another and each abuts or contacts side surfaces of the adjacent scaffold deck (14).

4. A scaffold in accordance with claim 23, wherein the at least one guide stop (15) comprise a contact part (19) which is horizontal in a position of use, which can engage over an associated horizontal carrier (13) and which has a downwardly extending projection (18) at an end remote from the scaffold deck (14) which engages around the associated horizontal carrier (13) when being pushed on, during lowering and after lowering of the scaffold deck (14).

5. A scaffold in accordance with claim 4, wherein each guide stop (15) is made as an angled plate, with one limb forming the contact part (19) and another limb forming the projection (18).

6. A scaffold in accordance with claim 23, wherein the at least one guide stop (15) is secured to a side of the scaffold deck (14) by means of an angled flange (20).

8. A scaffold in accordance with claim ~~[[7]]~~ 24, wherein the eyelet is made as a limb (21) of an angled plate (23) wherein a second limb (24) of the angled plate (23) is secured to the side of the scaffold deck (14).

9. A scaffold in accordance with claim 23, wherein the second horizontal carriers (13) comprise of a tube member behind which said holding means (26) engage which are offset relative to a longitudinal axis of symmetry (25) of the scaffold decks (14) and are offset from at the two short sides of the scaffold decks (14) and are adjacent to one another on the second horizontal carrier (13).

10. A scaffold in accordance with claim 9, wherein the tube member has a rectangular or round cross-section.

11. A scaffold in accordance with claim 9, further comprising recesses (27) next to the holding means (26) at the two short sides of the scaffold decks (14) into which holding means (26) of a scaffold deck (14) adjoining at each short side can engage.

12. A scaffold in accordance with claim 9, wherein the first and second horizontal carriers (12, 13) consist of two parallel individual carriers (12a, 12b; 13a, 13b) arranged at a small spacing.

13. A scaffold in accordance with claim 12, wherein the at least one guide stop (15) only engages over an individual carrier (13b) directly adjacent to the scaffold deck (14).

14. A scaffold in accordance with claim 12, wherein the holding means (26) at short side (16) of the scaffold decks (14) engage behind individual carriers (12a, 12b).

15. A scaffold in accordance with claim 12, wherein the holding means (26) at the two short sides (16, 17) of a scaffold deck (14) are mutually offset with respect to a longitudinal axis of symmetry (25) such that the holding means (26) of two scaffold decks (14) adjoining one another at the two short sides and engaging behind one individual carrier (12a, 12b) come to rest next to one another.

16. A scaffold in accordance with claim 23, wherein the vertical supports (11) carry perforated roses (28) at vertical intervals at which ends of the horizontal carriers (12, 13) are secured, by means of hook and wedge arrangements (33).

17. A scaffold in accordance with claim 23, wherein the scaffold decks (14) are elongate rectangles.

18. A scaffold in accordance with claim 23, wherein four vertical supports (11) are in each case arranged at the corners of a square, and carry said horizontal carriers (12, 13), at pre-determined vertical intervals.

19. A scaffold in accordance with claim 23, wherein the vertical supports (11) consist of a plurality of vertical support sections (11') telescopically joined together.

20. A scaffold deck (14) for a scaffold in accordance with claim 23.

23. A scaffold comprising:

a plurality of vertical supports (11) arranged spaced apart beside one another and behind one another, between which:

tiers (A, B, C) are arranged one above the other realised by:

a plurality of first horizontal carriers (12) extending parallel to one another between adjacent vertical supports,

a plurality of second horizontal carriers (13) extending parallel to one another between adjacent vertical supports and arranged perpendicular to said first horizontal carriers (12) at the same height; and

a plurality of rectangular scaffold decks (14) each having two long and two short sides (16, 17) and holding means being provided at the two short sides, and wherein said decks are releasably supported in the assembled state of the scaffold through the holding means on two adjacent first horizontal carriers (12);

a plurality of diagonal braces (35) being connected to adjacent vertical supports (11) characterized in that:

the decks (14) have at least one guide stop (15) projecting from one of said long sides and close to but spaced from at least one of said short sides (16, 17), said guide stop

extending along only a portion of said deck and is adapted to be slidably placed on a second horizontal carrier (13) in such a manner that the deck (14) held by an operator at the short side (17) remote from the guide stop (15) and operative to be displaced by sliding the guide stop (15) on the second horizontal carrier (13) to an opposite first horizontal carrier (12) and which is projecting to such an extent from said one side that by tilting the deck about the second horizontal carrier (13) on which the guide stop rests, said holding means is positioned higher than the opposite first horizontal carrier (12) so that the deck can be pushed to a position where said holding means is positioned over the opposite first horizontal carrier (12) and brought to rest into the position of use thereon, where the holding means have engaged the first horizontal carriers, by tilting back and lowering the deck into the horizontal position whereupon said holding means supports said deck upon said first horizontal carriers.

24. A scaffold comprising:

a plurality of vertical supports (11) arranged spaced apart beside one another and behind one another, between which:

tiers (A, B, C) are arranged one above the other realised by:

a plurality of first horizontal carriers (12) extending parallel to one another between adjacent vertical supports,

a plurality of second horizontal carriers (13) extending parallel to one another between adjacent vertical supports and arranged perpendicular to said first horizontal carriers (12) at the same height; and

a plurality of rectangular scaffold decks (14) each having two long and two short sides (16, 17) and holding means being provided at the two short sides, and wherein said decks are releasably supported in the assembled state of the scaffold through the holding means on two adjacent first horizontal carriers (12);

a plurality of diagonal braces (35) being connected to adjacent vertical supports (11) characterized in that:

the decks (14) have at least one guide stop (15) projecting from one of said long sides and close to but spaced from at least one of said short sides (16, 17), said guide stop extending along only a portion of said deck and is adapted to be slidably placed on a second horizontal carrier (13) in such a manner that the deck (14) held by an operator at the short side (17) remote from the guide stop (15) and operative to be displaced by sliding the guide stop (15) on the second horizontal carrier (13) to an opposite first horizontal carrier (12) and which is projecting to such an extent from said one side that by tilting the deck about the second horizontal carrier (13) on which the guide stop rests, said holding means is positioned higher than the opposite first horizontal carrier (12) so that the deck can be pushed to a position where said holding means is positioned over the opposite first horizontal carrier (12) and brought to rest into the position of use thereon, where the holding means have engaged the first horizontal carriers, by tilting back and lowering the deck into the horizontal position whereupon said holding means supports said deck upon said first horizontal carriers,

wherein the at least one guide stop (15) comprise a contact part (19) which is horizontal in a position of use, which can engage over an associated horizontal carrier (13) and which has a downwardly extending projection (18) at an end remote from the scaffold deck (14) which

engages around the associated horizontal carrier (13) when being pushed on, during lowering and after lowering of the scaffold deck (14), and wherein an eyelet (21) is secured to a side of the scaffold deck (14) remote from the guide stop (15) wherein said eyelet includes an opening (22) made complementary to the projection (18) such that the projection (18) of an adjacent scaffold deck (14) can engage into the opening (22) to thus hold the adjacent scaffold decks (14) at a defined, small spacing (D).